

## Gerry Moynihan QC

Year of Call: 1985 Year of Silk: 1997

gerry.moynihan@axiomadvocates.com  
07739 639346



### Professional Career to date

Devil Masters: Lord Rodger of Earlsferry, Lord Drummond Young and Sheriff TAK Drummond QC.

2012-2014 Chairman of Faculty Services Limited

2001-2003: Chairman of Faculty Services

1997: Queens Counsel

1995-1998: Advocate Depute

1990-1995: Standing Junior Counsel to Scottish Development Department (Planning)

1985: Admitted to Faculty of Advocates

### Education & Professional Qualifications

D Phil, Oxford University (1988)

LLB (Hons) Glasgow University (1979)

### Areas of Expertise

- Public Law, Judicial Review and Human Rights
- Professional Liability
- Planning
- Construction and Engineering
- Commercial Property
- Alternative Dispute Resolution
- Company, Corporate Finance and Tax
- Commercial Contracts

### Professional Experience

Gerry practises widely in civil litigation and appears frequently in courts at all levels in cases relating to a wide range of topics with particular emphasis on commercial litigation and cases involving general administrative law and human rights. He has acted as an arbiter and as chairman of the Police Appeals Tribunal. He acted as clerk to the Inquiry undertaken by Sir Anthony Campbell into the prosecution decisions relating to the murder of Surjit Singh Chhokar as well as being Senior Counsel to the Fingerprint Inquiry.

### Recent Cases

#### Administrative Law

*Christies of Scotland v Scottish Ministers* [2016] RVR 265: compulsory purchase

*Scotch Whisky Association Case C-333/14* [2016] 2 CMLR 27: EU Law, validity of minimum pricing of alcohol

*EIS v Glasgow City Council* 2014 SC 457: appointment of non-teachers as heads of nursery schools.

*Scottish National Party Petitioner* [2010] CSOH 56: attempt to block transmission of Prime Ministerial debate.

*Helow v Advocate General* [2008] UKHL 52, 2008 SLT 967: judicial bias.

### **Human Rights**

*JS & CS v Children's Reporter* [2016] CSIH 74: right to cross-examine witnesses

*Scottish Parliamentary Corporate Body v Indigenous Peoples of Scotland* 2016 SLT 862: right to evict protestors

*Ross for Judicial Review* 2015 SLT 617: right to die

*Shahid v Scottish Ministers* 2015 SLT 707: segregation of prisoners

*Doogan v Greater Glasgow & Clyde Health Authority* 2015 SC (UKSC) 32: conscientious objection to abortion

*Moohan Petitioner* 2015 SC (UKSC) 1: prisoners' right to vote

*S v L* [2012] UKSC 30: adoption.

*Somerville v Scottish Ministers* [2007] UKHL 44, 2008 SC (HL) 45: liability of Scottish Ministers in respect of breach of human rights.

*Whaley v Lord Advocate* [2007] UKHL 53, 2007 SLT 1209: Human Rights compatibility of foxhunting legislation.

### **Commercial**

*Red Star Pub Co v Scottish Power* 2016 CSOH 100: fire claim in commercial premises

*Gillespie Investments Ltd v Gillespie* [2012] CSIH 41: breach of fiduciary duty by directors.

*Rowan Timber Supplies (Scotland) Limited v Scottish Water Business Stream Limited* [2011] CSIH 26: prescription of claim for unjustified enrichment

*Batt Cables v Spencer Business Parks* [2010] CSOH 81: landlord and tenant, error in notice intimating termination of lease.

### **Planning**

*Land Securities v Scottish Ministers* 2007 SC (HL) 57: House of Lords - departure from National Planning Policy guidance.

*Standard Commercial v Glasgow City Council* 2007 SC (HL) 33: decision-making in relation to compulsory purchase for planning purposes.

### **Construction Law**

*SSE Generation v Hochtief*: collapse of hydro electric tunnel

*Martifer UK Ltd v Lend Lease* [2015] CSOH 8

### **Tax (litigation but not planning)**

*Commissioners of Inland Revenue v Scottish Provident* 2005 SC (HL) 33: efficacy of a tax avoidance scheme.

### **Professional negligence**

*Hawthorne v Anderson* [2014] CSOH 65: solicitor's negligence

*Cramaso v Viscount Reidhaven's Trustees*[2011] CSIH 81: duty of care owed to third party in respect of a misrepresentation.

*B v Murray* [2008] UKHL 32, 2008 SC (HL) 146: time bar in relation to a claim for historical child abuse.

### **Others**

*Aitchison v Glasgow City Council*

[2010] CSIH 9: Full Bench in Inner House of Court of Session concerning the relevance of separate injuries in the operation of the law of limitation.

*Moderator of the General Assembly of the Free Church of Scotland v Interim Moderator of the Congregation of Strath Free Church of Scotland (Continuing)* (No.3), 2012 S.C. 79: Ownership of church property held in trust following division of membership of church.

### **Advocates Courts & Tribunals**

European Court of Justice; Supreme Court; House of Lords; Privy Council; High Court of Justiciary; Court of Session; Sheriff Court.